In the High Court for the States of Punjab and Haryana, at Chandigarh.

C.W.P.No. 1948 of 2006
Decided on Nov 06,2006.

Palvinder Singh --Petitioner

vs.

Punjab National Bank --Respondent.

Coram: Hon'ble Mr.Justice Jasbir Singh
Hon'ble Mr.Justice Pritam Pal

Present: Mr. Naveen Chopra,Advocate,for the petitioner

Mr.O.P.Narang,Advocate,for the respondent.

Jasbir Singh J:(Oral)

This writ petition has been filed with a prayer to issue a writ of Certiorari, to quash order dated October 31,2005 (Annexure P-1), passed by Sub Divisional Officer (Civil), Karnal, vide which, the petitioner was directed to pay an amount of Rs. 4,85,276/- to the respondent bank.

It is not in dispute that on May 21,1988, the petitioner raised a loan of Rs.80,000/- for purchase of a tractor, and thereafter, he had become defaulter, which compelled the respondent bank to file an application for recovery of the loan amount, under the provisions of Haryana Agricultural Credit Operation & Miscellaneous Provisions (Banks) Act, 1973. Notice of that application was sent to the petitioner. After filing reply, the petitioner/his counsel, failed to appear on the

date, when order was passed. It is contention of counsel for the petitioner that due to wrong noting down of the date, by his counsel, petitioner failed to appear on the relevant date and on account of that, order had been passed against him exparte, even without noting, any of the averments raised by the petitioner in his reply. Petitioner has relied upon Section 8 of the Haryana Relief of Agricultural Indebtedness Act, 1976, and also a judgment of this Court in Darya Singh v. Collector, District Bhiwani, 1985 Recent Revenue Reports 90, wherein it has been said that respondent bank can charge interest only @ 6% per annum and not @ 12.50% per annum , as has been done by the order under challenge.

After hearing counsel for the parties, we feel that it is not necessary for us to give findings on merits, as order under challenge has admittedly been passed in an exparte manner. Counsel for the respondent has also failed to refute the contention raised by counsel for the petitioner that the petitioner failed to appear because of wrong noting down of the date by his counsel. For any wrong committed by his counsel, the petitioner is not to be penalised.

In the interest of justice, and also to examine as to whether the provisions of Section 8 of the aforesaid Act and also the ratio of Darya Singh (Supra) and State Bank of India v. Yasangi Venkateswara Rao, 1999, ISJ (Banking) 232, are applicable to the facts of the present case or not, we allow this writ petition, quash order Annexure P-1 and also subsequent order Annexure P-2, remit the matter to the Prescribed Authority-cum Sub Divisional Officer (Civil), Karnal,where the parties are directed to appear on November 27,2006. It is made clear that if the

petitioner wants to lead any evidence, the officer concerned shall give him two opportunities within a spell of one month. If the petitioner fails to avail that opportunity, no further time be granted to him and order be passed, preferably within four months, from the date of receipt of a certified copy of this order. In the meantime, liberty is also granted to the petitioner to approach the bank for One Time Settlement.

(Jasbir Singh)
Judge

Nov 06,2006,
RR

(Pritam Pal)
Judge